State of Colorado



Bill Owens

Governor

Jeffrey M. Wells

Executive Director

Paul Farley

Deputy Executive Director

Jeffrey C. Schutt

Division Director

DATE: January 20, 2005

TO: Directly Affected Employees through Agency HR Administrators

American Federation of State, County, Municipal Employees

Colorado Association of Public Employees Colorado Federation of Public Employees Colorado State Patrol Protective Association

FROM: Karen Fassler, Total Compensation Manager

SUBJECT: Official Notice of Proposed Change - JEL 05-03

JEL 05-03 has been released. This proposal contains changes to the Administrative Law Judge class series. Implementation is scheduled for July 1, 2005. Please share this information with your appointing authorities, affected employees, budget officers, and any others in your department or institution.

Statute requires that directly affected employees and employee organizations be notified of proposed changes to the system prior to changes being finalized and implemented. By Personnel Director's Administrative Procedure P-2-3 and Personnel Board Rule R-1-7, notice to employees of these proposed changes shall be provided by appointing authorities. Agency human resource administrators are responsible for providing this information to their respective appointing authorities. APPOINTING AUTHORITIES ARE RESPONSIBLE FOR DISTRIBUTING THIS INFORMATION TO DIRECTLY AFFECTED EMPLOYEES BEFORE THE DEADLINE SPECIFIED BELOW.

No class description is final until approved for implementation by the state personnel director. Employees should contact their agency human resource offices for further information. Information is also available on the web at www.colorado.gov/dpa.

The following public meeting is scheduled to fulfill the department's "meet and confer" obligation.

January 31, 2005, at 2:30 p.m. 1313 Sherman St., Room 220 Denver, CO 80203

All "meet and confer" activities must be concluded by **February 7, 2005** in order to be considered before the study is finalized and implemented. Thus, written comments must be received by the above date at 1313 Sherman Street, Room 122, Denver, CO 80203, faxed to 303-866-2458, or emailed to job.eval.comp@state.co.us. For additional information, contact Don Fowler at 303-866-4250 or Travis Engelhardt at 303-866-4252.

ATTN: Compensation Team
Department of Personnel & Administration
1313 Sherman St., Room 122
Denver, CO 80203

DPA

Department of Personnel & Administration

Division of Human Resources

1313 Sherman St., First Floor Denver, Colorado 80203 Phone (303) 866-2323 Fax (303) 866-2021 www.colorado.gov/dpa

SUMMARY OF SYSTEM CHANGES

JE Letter #: 05-03 Date of Letter: 1/20/05

Job Evaluation System

* P = proposed; F = final (only F is to be entered into EMPL and ADS)

P or F*	CD Changes		Current Class		New Class		Occ Grp		Grade		Pay Diff.		Effective	
	New	Rev	Abol	Code	Title (limit 25 characters)	Code	Title (limit 25 characters)	From	То	From	То	From	То	Date
P	X					H5L1XX	Admin Law Judge I	PS	PS			0	0	7/1/05
P		X		H5A2TX	Admin Law Judge I	H5L2XX	Admin Law Judge II	PS	PS			0	0	7/1/05
P		X		H5A3XX	Admin Law Judge II	H5L2XX	Admin Law Judge II	PS	PS			0	0	7/1/05
P		X		H5A4XX	Admin Law Judge III	H5L3XX	Admin Law Judge III	PS	PS			0	0	7/1/05
P			X	H5A4XX	Admin Law Judge IV									

ISSUING AUTHORITY: Colorado Department of Personnel and Administration Rev. 1/2/05



SYSTEM MAINTENANCE STUDY

NARRATIVE REPORT -- PROPOSED CHANGES

ADMINISTRATIVE LAW JUDGE

Class Code H5L1XX through H5L3XX

Conducted Fiscal Year 2004-2005

BACKGROUND AND PURPOSE OF STUDY

This system-wide study is part of the state personnel director's statutory responsibility, C.R.S. 24-50-104(1)(b), for maintaining and revising the system of classes covering all positions in the state personnel system. Such maintenance may include the assignment of appropriate pay grades that reflect prevailing wage as mandated by C.R.S. 24-50-104(1)(a). The state personnel director has delegated authority for system studies to the Division of Human Resources (hereafter "the division").

This study of the Administrative Law Judge (ALJ) class series was conducted to address concerns and issues raised by two departments using this class series. A need for a developmental or first working level, below the current fully operational level, was relayed. In addition, this class series is not a market survey benchmark, which means the division does not receive market salary data on an annual basis to validate state salaries for positions in this class. Since user departments requested some possible changes, no local market salary data is available, and no study has been completed on this class series in a number of years, the division conducted this study of the series.

METHODOLOGY

The ALJ class series currently contains four separate classes and concepts: fully operational, work lead, supervisory, and manager. EMPL data as of October 1, 2004, indicate the ALJ class series consists of 33 total filled positions in three departments: the Department of Personnel & Administration (DPA), the Department of Labor & Employment (DOLE), and the Department of Regulatory Agencies (DORA). The study team, which was co-led by two occupational specialists in the division, included HR professionals representing DPA, DORA, and DOLE. The study was announced on the division's website in the Job Evaluation section.

The study team met to discuss issues with the use of the current class series and all requested changes. The class concepts were discussed, including adding a first working level for bringing new and inexperienced ALJs into the system and for positions performing administrative magistrate duties. Also, since the ALJ IV class is expected to be vacant soon and not needed in the future, the study team was asked to consider abolishing that class.

Salary data for the ALJ series is not available through the annual survey process. Because state government is the only entity with comparable positions, the division is conducting a direct survey of other state governments. The direct survey will define the difference between a hearings officer and an ALJ to avoid any confusion or misleading salary data reported and will ask respondent states to report their salary ranges and concept levels for their comparable ALJ positions. In order to ensure the validity and proper use of survey data, the division will follow established procedures using a salary relationship comparison method to analyze the direct survey data and to correlate that data to set the Colorado ALJ class series pay grades.

ISSUES AND FINDINGS

The study team recommends that a new first working level will be beneficial and give appointing authorities the flexibility to allow new judges to gain valuable experience while handling a less complex case load in order to progress to the fully operational hearing judge whose work is described in a higher class. In addition, this concept affords the appointing authority the flexibility to create permanent pre-hearing or other administrative magistrate work assignments, in which case the position may not evolve to presiding over a full range of administrative law hearings. The study team decided to combine these assignments into an administrative magistrate concept and create this new class as the ALJ I level.

After further consideration, the study team decided that the existing ALJ II class concept of work leader or functional supervisor was cumbersome and not needed. With the very high level of independence in the work of most judges, there is little need or opportunity to apply the concept of a lead worker in these judicial settings. Furthermore, the tradeoff in this class was defined as functional supervision, defined in the current class as "performing an appellate level of review of appealed legal decisions" in either worker's compensation or unemployment insurance cases. Currently that appellate review is accomplished in a multi-person panel setting where the appellate

review is shared among several ALJs. The study team, in consultation with appointing authorities, concluded that this shared responsibility for review of appeals did not warrant maintaining a separate class as in this series. Both the appointing authorities and the study team concurred that this appellate review function, while a distinct fully operational function, was not comparably more complex or difficult than full merit hearing cases which include the complete range of trial activities and judicial decisions. The study team concluded that the current fully operational, full merit hearings ALJ I concept of work and the functional supervision or appellate level of work be combined into one class, proposed to be called the ALJ II class in the new structure.

One addition to the current ALJ III class was the allowance of a tradeoff for lack of supervision over the three FTE of judges required by the current class concept. Following review and discussion, the study team concluded that an adequate tradeoff for not supervising the full three FTE would be the regional office administration, contract management, and budget and facility responsibilities found in some ALJ III positions. This tradeoff will be added to the proposed ALJ III class description.

With the pending vacancy of the only ALJ IV position in the system and with the recommendation of departments' appointing authorities, the study team concurred that the class of ALJ IV be abolished, as will no longer be needed for the foreseeable future. This is with the understanding that if the class is needed in the future, the division can re-create it with little effort and proper justification.

The results of the study process are the class descriptions being proposed. The table below depicts the new class concept levels as proposed.

New class/grade	Concept
	Administrative magistrate level jobs; first working, pre-
ALJ I	hearing assignments (motions, settlements & mediations) or
	other developmental or acclimation type assignments.
	Full operating assignments for full "merit" hearings, or appeal
ALJ II	functions.
	Complete unit supervisor or supervision with a tradeoff for
ALJ III	regional office management responsibility.

With the addition of new conceptual levels in this series, i.e., the administrative magistrate level as the new ALJ I, the division included class placement as part of the study. This is due to the probability that one or more present ALJ I and/or ALJ II positions may be placed in different new classes. Because it is unknown which position will go to which new class without an individual review of PDQs, the study team recommended that all individual PDQs be reviewed for proper placement in the new re-structured class series. These reviews will be completed immediately following the meet and confer on this proposed class description.

MEET AND CONFER ON PROPOSED RESULTS

C.R.S. 24-50-104(1)(b) requires the division to meet and confer with affected employees and employee organizations, if requested, regarding the proposed changes before they are implemented as final. In an effort to proactively facilitate this process, a public meeting is scheduled for January 31, 2005, at 2:30 p.m., in room 220 at 1313 Sherman St., Denver. The official deadline by which all "meet and confer" activity must conclude on these proposed changes is on February 7, 2005, in order to implement the recommendations on July 1, 2005.

PAY GRADE ASSIGNMENT

Once the Department completes the analysis of its relationship review of salaries of other states, the appropriate pay grades will be assigned to the new classes. Another meet and confer will follow publication of the pay grade assignments. Final pay grade assignments will be published with the final publication of this study and will also be effective July 1, 2005. Any pay grade changes will be separate from the annual salary survey implementation and performance awards implemented on the same date.

In accordance with the Director's Administrative Procedures, system maintenance studies are implemented on a "dollar-for-dollar" basis where the employee's current salary remains unchanged when a class or position is moved to a new grade. If current salaries are above the maximum of the new grade, employees maintain their current salary for up to three years as authorized by C.R.S. 24-50-104(1)(e). Any fiscal impact will also be reported in the final publication.

RECOMMENDATIONS

I. Occupational Group

No change is recommended. These classes remain in the Professional Services Occupational Group.

II. Class Descriptions

See attached proposed class description.

III. Class Conversion and/or Placement

Class placement is the movement of positions in the former class to the appropriate new or existing class for the purpose of realigning and maintaining the accuracy of the job evaluation structure. Class placement is based on the panel evaluation of Position Description Questionnaires. Class placement will occur as part of this study and the results will be published when this study is published as final. It is expected that the placement results will be implemented on July 1, 2005.



STATE OF COLORADO

PROPOSED CLASS SERIES DESCRIPTION January 20, 2005

ADMINISTRATIVE LAW JUDGE

H5L1XX TO H5L3XX

DESCRIPTION OF OCCUPATIONAL WORK

This class series contains three classes in the Professional Services Occupational Group and describes legal work concerned with presiding over hearings as a judge in order to resolve disputes between state agencies and persons or businesses, which arise in the course of administering applicable laws. Work includes presiding over hearings involving the presentation of evidence and arguments of attorneys, evaluating evidence, analyzing laws and regulations pertinent to the dispute, making findings of fact and conclusions of law, and issuing written decisions and orders based upon the analysis of the evidence and applicable laws and regulations. In the area of the pre-hearing or administrative magistrate function work includes activities such as, but not limited to, presiding over pre-hearing and settlement or mediation conferences that involve the presentation of evidence and arguments of attorneys, evaluating evidence, analyzing laws pertinent to the case, and preparing and approving settlement agreements between parties in a dispute.

INDEX: Administrative Law Judge I begins on this page, Administrative Law Judge II begins on page 3, and Administrative Law Judge III begins on page 4.

ADMINISTRATIVE LAW JUDGE I

H5L1XX

CONCEPT OF CLASS

This class describes the first working level administrative law judge and pre-hearing or administrative magistrate assignments. The first working level or developmental assignment is designed to provide positions with experience in preparation for a more complex work assignment involving the full range of complex hearings. Additionally, this level describes positions involved in presiding over pre-hearings, motions, and settlement or mediation conferences, and preparing and issuing decisions and orders on cases. Decisions and orders are typically subject to review by a higher-level administrative law judge.

It is not expected that all positions will progress to the next class, as positions in this class may be used for a permanent, less complex work assignment or in an administrative magistrate capacity.

FACTORS

Allocation must be based on meeting all of the four factors as described below.

Decision Making -- The decisions regularly made are at the process level, as described here. Within limits set by professional standards, the agency's available technology and resources, and the administrative hearings process and program objectives and regulations established by a higher management level, choices involve determining the process, including designing the set of operations used to complete and conduct hearings. The general pattern, program, or system exists but must be individualized to plan and hear cases. This individualization requires analysis of data that is complicated. Analysis is breaking the problem or case into parts, examining these parts, and reaching conclusions that result in processes. This examination requires the application of known and established statutes, prior court decisions, case law theory, principles, conceptual models, professional standards, and precedents in order to determine their relationship to the problem. For example, a position renders decisions and orders on cases by collecting and analyzing facts pertinent to the case, determining legal issues, and determining applicable law by researching statutes and prior cases. New processes or objectives require approval of higher judicial management or the agency with authority and accountability for the program or system.

Complexity -- The nature of, and need for, analysis and judgment is patterned, as described here. Guidelines exist for most situations such as general policy, legal precedent, and non-specific practices. Judgment is needed in locating and selecting the most appropriate of these guidelines, which may change for varying circumstances as the task is repeated. This selection and interpretation of guidelines involves choosing from alternatives where all are correct but one is better than another depending on the given circumstances of the situation.

Purpose of Contact --Regular work contacts with others outside the supervisory chain, regardless of the method of communication, are for the purpose of arbitrating, resolving differences, and authorizing action that directly determines the agency's mission. The result directly affects agency policy. For example, a position presides over hearings to settle disputes and renders decisions and orders that directly affect agency programs and how agency programs are carried out.

Line/Staff Authority -- The direct field of influence the work of a position has on the organization is as an individual contributor. The individual contributor may explain work processes and train others. The individual contributor may serve as a resource or guide by advising others on how to use processes within a system or as a member of a collaborative problem-solving team. This level may include positions performing supervisory elements that do not fully meet the criteria for the next level in this factor.

ADMINISTRATIVE LAW JUDGE II

H5L2XX

CONCEPT OF CLASS

This class describes fully operational assignments. Positions preside over the full range of complex administrative law hearings to settle legal disputes. Work involves deciding the merits of cases, hearing and evaluating evidence of all witnesses, analyzing laws and regulations, making findings of fact and conclusions of law, and issuing written decisions and orders to resolve cases. In addition, positions at this level may perform an appellate level of review of appealed legal decisions in the areas of worker's compensation and unemployment compensation insurance. Positions functioning at this level may determine the correctness of judges' decisions, which have been appealed. The Administrative Law Judge II differs from the Administrative Law Judge I on the Complexity factor.

FACTORS

Allocation must be based on meeting all of the four factors as described below.

Decision Making -- The decisions regularly made are at the process level, as described here. Within limits set by professional standards, the agency's available technology and resources, and the administrative hearings process and program objectives and regulations established by a higher management level, choices involve determining the process, including designing the set of operations used to complete and conduct hearings. The general pattern, program, or system exists but must be This individualization requires analysis of data that is individualized to plan and hear cases. complicated. Analysis is breaking the problem or case into parts, examining these parts, and reaching conclusions that result in processes. This examination requires the application of known and established statutes, prior court decisions, case law theory, principles, conceptual models, professional standards, and precedents in order to determine their relationship to the problem. For example, a position renders decisions and orders on cases by collecting and analyzing facts pertinent to the case, determining legal issues, and determining applicable law by researching statutes and prior cases; or, a position determines work unit processes and operations which are followed by others in order to provide administrative law services. New processes or objectives require approval of higher judicial management or the agency with authority and accountability for the program or system.

Complexity -- The nature of, and need for, analysis and judgment is formulative, as described here. Positions evaluate the relevance and importance of statutes and case law theories, concepts, and principles in order to tailor them to develop a different approach or tactical plan to fit specific circumstances. While general policy, precedent, or non-specific practices exist, they are inadequate so they are relevant only through approximation or analogy. In conjunction with theories, concepts, and principles, positions use judgment and resourcefulness in tailoring the existing guidelines so they can be applied to particular circumstances and to deal with emergencies. For example, a position evaluates the relevance of statutes, prior court cases, legal principles, arguments, and evidence in order to render decisions in disputed legal issues.

Purpose of Contact --Regular work contacts with others outside the supervisory chain, regardless of the method of communication, are for the purpose of arbitrating, resolving differences, and authorizing action that directly determines the agency's mission. The result directly affects agency policy. For example, a position presides over hearings to settle disputes and renders decisions and orders that directly affect agency programs and how agency programs are carried out.

Line/Staff Authority -- The direct field of influence the work of a position has on the organization is as an individual contributor. The individual contributor may explain work processes and train others. The individual contributor may serve as a resource or guide by advising others on how to use processes within a system or as a member of a collaborative problem-solving team. This level may include positions performing supervisory elements that do not fully meet the criteria for the next level in this factor.

ADMINISTRATIVE LAW JUDGE III

H5L3XX

CONCEPT OF CLASS

This class describes positions that function as a supervisor of an administrative hearings or appellate review organizational unit and are directly accountable for the work product of the unit or serve as the manager of a regional office with limited programmatic responsibilities, such as budgeting, administrative staffing and scheduling, workflow processes, and facility and contractual arrangements. Regional managers may not have sufficient staff to meet the line/staff requirements, thus the programmatic responsibilities may be used as a tradeoff for inclusion in this class. The Administrative Law Judge III differs from the Administrative Law Judge II on the Decision Making and possibly Line/Staff Authority factors.

FACTORS

Allocation must be based on meeting all of the four factors as described below.

Decision Making --The decisions regularly made are at the interpretive level, as described here. Within limits of the strategic master plan and allocated human and fiscal resources, choices involve determining tactical plans to achieve the administrative hearings program objectives established by the higher management (strategic) level. For example, a position establishes plans and daily operational policies to ensure administrative law hearings services and activities are carried out efficiently and effectively. This involves establishing what processes will be done, developing the budget requests, and developing the staffing patterns and work units in order to deploy staff. It also involves providing legal direction, advice, and guidance in the application and interpretation of statutes, rules, and regulations pertaining to state agency programs and legal procedures and proceedings. This level includes inventing and changing systems and guidelines that will be applied by others in an organizational unit such as, operating policies and guides for the delivery of administrative hearings services and work product standards. Work involves establishing what processes will be done and developing the staffing patterns and work units in order to deploy staff. By nature, this is the first level where positions are not bound by processes and operations in their own programs as a framework for decision making and there are novel

or unique situations that cause uncertainties that must be addressed at this level. For example, a position develops and sets guidelines and policies, to be followed by others, pertaining to the daily operation of the work unit and delivery of administrative hearings services. Through deliberate analysis and experience with these unique situations, the manager or expert determines the systems, guidelines, and programs for the future.

Complexity --The nature of, and need for, analysis and judgment is formulative, as described here. Positions evaluate the relevance and importance of statutes, case law, and management theories, concepts, and principles in order to tailor them to develop a different approach or tactical plan to fit specific circumstances. While general policy, precedent, or non-specific practices exist, they are inadequate so they are relevant only through approximation or analogy. In conjunction with theories, concepts, and principles, positions use judgment and resourcefulness in tailoring the existing guidelines so they can be applied to particular circumstances and to deal with emergencies. For example, a position evaluates the relevance of statutes, case law, and management theories, concepts, and principles in order to develop tactical plans and guidelines necessary to implement and ensure the delivery of administrative law hearings services effectively.

Purpose of Contact --Regular work contacts with others outside the supervisory chain, regardless of the method of communication, are for the purpose of arbitrating, resolving differences, and authorizing action that directly determines the agency's mission. The result directly affects agency policy. For example, a position presides over hearings to settle disputes and renders decisions and orders that directly affect agency programs and how agency programs are carried out.

Line/Staff Authority -- The supervisor is accountable, including signature authority, for actions and decisions that directly impact pay, status, and tenure of three or more full-time equivalent positions, all in this series or in a comparable conceptual series. At least one of the subordinate positions must be in the Administrative Law Judge II class. The elements of formal supervision must include providing documentation to support recommended corrective and disciplinary actions, signing performance plans and appraisals, and resolving informal grievances. Positions start the hiring process, interview applicants, and recommend hire, promotion, or transfer.

OR

The individual contributor may explain work processes and train others, serve as a resource or guide by advising others on how to use processes within a system or as a member of a collaborative problem-solving team. *As a tradeoff, an individual contributor that supervises at least one FTE in the Administrative Law Judge II class, AND has regional office management responsibilities that include budgeting, administrative staffing and scheduling, workflow processes, facility and contractual arrangements, and other associated duties may be allocated to this class in lieu of the full supervisory definition.

ENTRANCE REQUIREMENTS

Minimum entry requirements and general competencies for classes in this series are contained in the State of Colorado Department of Personnel web site.

For purposes of the Americans with Disabilities Act, the essential functions of specific positions are identified in the position description questionnaires and job analyses.

CLASS SERIES HISTORY

Proposed 1/20/05 (TLE/DLF) Administrative Law Judge I becomes the first working level or for assigned pre-hearing and administrative magistrate duties. Administrative Law Judge II includes the fully operational level. The work lead concept was eliminated. Administrative Law Judge III added the regional program level responsibilities as tradeoff for line/staff authority. Administrative Law Judge IV is abolished. This series (H5A2-5) converted to the H5L1-3 series.

Effective 7/1/01 (KKF). Administrative Law Judge Intern (H5A1) abolished as part of the annual elimination of vacant classes. Published proposed on 5/10/01.

Proposed 8/1/94 (CVC). Response to system appeal of 9/1/93.

Effective 9/1/93 (CVC). Job Evaluation System Revision project. Published as proposed 06/01/93.

Revised 10/01/87. Title, relationship, nature of work, some examples of work, knowledge, skills and abilities for A7575* Administrative Law Judge I-A, A7576* Administrative Law Judge I-B and A7577* Administrative Law Judge I-C. Title, relationship, nature of work, some examples of work, knowledge, skills and abilities, education and experience for A7578X Administrative Law Judge II and A7579X Administrative Law Judge III.

Revised 02/01/84. Class code, addition of option G, education and experience for A7575* Administrative law Judge I-A, A7576* Administrative Law Judge I-B and A7577* Administrative Law Judge I-C. Deletion of options, nature of work, some examples of work, knowledge, skills and abilities for A7578X Administrative Law Judge II. Nature of work, some examples of work for A7579X Administrative Law Judge III.

Revised 07/01/80. Grade and relationship for A7575* Administrative law Judge I-A, A7576* Administrative Law Judge I-B and A7577* Administrative Law Judge I-C.

Revised 08/01/79. Change skill code only for A7579X Administrative Law Judge III.

Revised 06/01/78. Education and experience for A7575* Administrative law Judge I-A, A7576* Administrative Law Judge I-B, A7577* Administrative Law Judge I-C, A7578X Administrative Law Judge II and A7579X Administrative Law Judge III.

Created 04/01/75. A7578X Administrative Law Judge II and A7579X Administrative Law Judge III.

Created 01/01/75. A7575* Administrative law Judge I-A, A7576* Administrative Law Judge I-B and A7577* Administrative Law Judge I-C.

SUMMARY OF FACTOR RATINGS

Class Level	Decision Making	Complexity	Purpose of Contact	Line/Staff Authority
Admin. Law Judge I	Process	Patterned	Arbitrate	Indiv. Contributor
Admin. Law Judge II	Process	Formulative	Arbitrate	Indiv. Contributor
Admin. Law Judge III	Interpretive	Formulative	Arbitrate	Unit Supervisor or Individual Contributor

ISSUING AUTHORITY: Colorado Department of Personnel & Administration